

# DIRECTIVE

## JOB TRAINING PARTNERSHIP ACT

Number: D97-22

Date: July 6, 1998  
69:55:va

TO: SERVICE DELIVERY AREA ADMINISTRATORS  
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS  
JTPD PROGRAM OPERATORS  
EDD JOB SERVICE OFFICE MANAGERS  
JTPD STAFF

SUBJECT: THE WORK OPPORTUNITY AND WtW TAX CREDIT PROGRAMS

### EXECUTIVE SUMMARY:

#### **Purpose:**

The purpose of this Directive is to provide updated information to Service Delivery Areas (SDA) and Private Industry Councils (PIC) regarding the reauthorization of the Work Opportunity Tax Credit (WOTC) under the Taxpayer Relief Act of 1997 (P.L. 105-34), and to detail the major changes in the program as a result of the new law. Additionally, this Directive provides information on the new Welfare-to-Work (WtW) Tax Credit authorized under this act, which is to be administered in the same manner as the WOTC program.

#### **Scope:**

This Directive applies to all California SDAs, PICs, and to other entities contracting directly with the Employment Development Department (EDD), to operate programs funded under the Job Training Partnership Act (JTPA) and the WtW program.

#### **Effective Date:**

This Directive is effective immediately.

### REFERENCES:

- Small Business Job Protection Act of 1996 (Public Law 104-188)
- Taxpayer Relief Act of 1997 (Public Law 105-34)
- Department of Labor (DOL) Employment Service Program Letter Number 5-97
- Employment and Training Administration (ETA) Handbook Number 408, Work Opportunity Tax Credit Program (July 1997)
- Addendum to ETA Handbook Number 408, Work Opportunity and Welfare-to-Work Tax Credits (February 1998)
- DOL Employment Service Program Letter Number 98-02

## **STATE-IMPOSED REQUIREMENTS:**

This document contains state-imposed requirements that are printed in ***bold, italic*** type.

## **FILING INSTRUCTIONS:**

This Directive supersedes Directive D96-23.

## **BACKGROUND:**

On August 20, 1996, President Clinton signed the Small Business Job Protection Act of 1996 (Public Law 104-188). This legislation included WOTC, which replaced the Targeted Jobs Tax Credit that expired December 31, 1994. The WOTC is designed to encourage employers to hire individuals from certain groups who consistently have the most difficulty in securing employment. As originally written, employers who hired individuals from one of seven targeted groups would be eligible to receive a federal tax credit. The duration of the WOTC program was from October 1, 1996, through September 30, 1997.

On August 5, 1997, the President signed the Taxpayer Relief Act of 1997 (Public Law 105-34) which extends the WOTC program to June 30, 1998. This legislation also includes changes to the target group designations, tax credit amounts, and introduces a two-tier retention period. Additionally, the Taxpayer Relief Act of 1997 adds the new WtW Tax Credit which became effective January 1, 1998. The WtW Tax Credit program targets the long-term family assistance recipient and is being coordinated with the WOTC program. According to EDD's WOTC Administrator, the WOTC program will be extended beyond June 30, 1998. At issue currently is whether the extension will be for two or three years. Please continue to perform conditional certifications for WOTC-eligible individuals according to the following procedures.

Both the WOTC and WtW Tax Credit are figured on qualified wages paid to or incurred on behalf of target group individuals. The WOTC can only be claimed on an individual's first year wages, while the WtW Tax Credit may be claimed for wages earned during an individual's first two years of employment. The actual amount of tax credit depends on several factors including the employer's tax rate, target group of the individual hired, amount of wages earned, and retention period. See "Attachment 7" and the Major Changes section on the following pages for WOTC and WtW Tax Credit specifics.

The Federal Departments of the Treasury and Labor share administrative responsibility for the WOTC and WtW Tax Credit programs. The Department of the Treasury, through the Internal Revenue Service (IRS), administers the tax provisions of the credits while DOL, through ETA, provides guidance and oversight to states about determination of target group eligibility and the processing and certification of job applicants as target group members to employers. State Employment Security Agencies (EDD in California) are named as the "designated local agencies" and are responsible for issuing both conditional and final certifications for the WOTC and WtW Tax Credit programs. However, by federal law, EDD may delegate WOTC and WtW conditional certifications to a participating agency (as defined on the following pages).

## **Major Changes:**

The Taxpayer Relief Act of 1997 makes the following major changes:

### **A. WOTC Program:**

1. Extends WOTC for a nine-month period, effective for all individuals beginning work October 1, 1997, through June 30, 1998. Please see note on page two of this Directive for information regarding the WOTC's extension beyond June 30, 1998.
2. Changes the eligibility definition for the Qualified IV-A recipient Aid to Families with Dependent Children (AFDC)/Temporary Assistance for Needy Families (TANF) target group from receiving benefits for nine "consecutive" months within **any** nine months within the last 18 months.
3. Amends the eligibility definition of the Qualified Veteran target group to include **only** veterans who are members of families receiving food stamps. The special qualification for veterans receiving TANF has been repealed.
4. Establishes a new target group: Qualified Supplemental Security Income (SSI) Recipients receiving benefits for **any** month ending within the 60-day period ending on the hiring date.
5. Increases the amount of the tax credit for target group members employed for at least 400 hours, from 35 percent to 40 percent of qualified wages (i.e., wages up to \$6,000) for a maximum credit of \$2,400 for all target groups except for summer youth.
6. Provides for a reduction of the 40 percent tax credit equal to 25 percent of qualified wages (i.e., wages up to \$6,000) for target group members employed for **less** than 400 hours, but at least for 120 hours. This allows for a maximum credit amount of \$1,500.

### **B. The WtW Tax Credit:**

1. Authorizes this tax credit for a 16-month period, effective for individuals **beginning** work January 1, 1998, through April 30, 1999. The WtW Tax Credit applies to individuals who are long-term family assistance recipients as defined below.
2. Provides that the amount of the tax credit is equal to 35 percent of qualified wages (i.e., wages up to \$10,000) for the first year and 50 percent of qualified wages (i.e., wages up to \$10,000) for the second year. Qualified wages cannot exceed \$10,000 each year. The total maximum credit the employer can receive is \$8,500 per new hire. Individuals must be employed for at least 180 days or have completed 400 hours of work in the year for which the credit is claimed.

## **POLICY AND PROCEDURES:**

The WOTC is coordinated with the WtW Tax Credit, so that in any one taxable year an employer cannot claim both credits with respect to the same individual.

If, for any period, an employer receives federally-funded payments for On-the-Job Training (OJT) for an employee, none of the wages paid to that employee for the OJT

period qualify for the WOTC or WtW Tax Credit. While the wages paid to the employee during the OJT period do not qualify the employer for a tax credit, the time spent by the employee receiving OJT qualifies the employer towards fulfilling the minimum employment period requirement (retention period).

### **WOTC and WtW Tax Credit Certification Procedures:**

For the purposes of the WOTC and WtW Tax Credit, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by the EDD WOTC Center. The EDD's certification requirement may be satisfied in either of two ways. Under one approach, the employer must complete a pre-screening notice, IRS Form 8850 "Attachment 4," Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits, and Form ETA 9061, Individual Characteristics Form Work Opportunity Tax Credit and Welfare-to-Work Tax Credit (Attachment 5). These forms, which contain information on the prospective employee, must be completed on or before the day the individual is offered employment. Within 21 days after the individual begins work, the employer must submit the completed Forms 8850 and 9061 to EDD as part of a request for certification. Subsequently, EDD returns a document to the employer certifying the individual as a member of a targeted group.

Under the other approach, an employer may receive a conditional certification from EDD or a participating agency on or before the day the prospective employee begins work, stating that the individual appears to be a member of a targeted group. The conditional certification is issued on form ETA 9062 (DE 8726) "Attachment 6," Conditional Certification Work Opportunity and Welfare-to-Work Tax Credits. The employer then submits this form, along with Form 8850, to EDD for final certification. The employer must submit the Form 8850 and ETA 9062 (DE 8726) within 21 days after the participant starts work.

The EDD retains the responsibility for final certifications. However, conditional certifications will be delegated to participating agencies. A participating agency is defined as a federal, state, or local government agency or a grantee of these agencies. Participating agencies may include, but are not limited to, JTPA grantees, Job Corps Centers, School-to-Career transition grantees, Vocational Rehabilitation agencies, city and county welfare offices, Veterans' Affairs offices, and other veterans-serving organizations.

Federal law requires that formal cooperative agreements be negotiated between EDD and participating agencies, allowing those agencies to assist in the WOTC/WtW Tax Credit initiative by performing eligibility determinations and issuing conditional certifications. Rather than require individual SDAs to negotiate a Memoranda of Understanding with EDD, the Job Training Partnership Division (JTPD) has entered into an Intra-agency Agreement with Job Service Division (JSD), EDD's administrator of the WOTC and WtW Tax Credit programs.

## **Participating Agency Conditional Certification Procedures:**

The conditional certification process begins when a jobseeker comes to the local employment office, SDA, or other participating agency to perform a job search, or in response to a positive recruitment.

To determine if a job-ready applicant is eligible and to issue a conditional certification for the WOTC and WtW Tax Credit programs, the SDA must complete the conditional certification form ETA 9062 [DE 8726 (Rev. Jan. 1998)]; **this is a required form**. No modification or substitution of this form may be made. Complete form ETA 9062 with the following information:

1. Enter the initiating agency code. ***For SDA/PIC purposes, this will be the three digit code assigned by the Job Training Automation system.*** Additionally, indicate with a check mark that the initiating agency is a participating agency rather than EDD. Attachment 1 lists the codes to be used for this section.
2. Enter the control number. ***This will be the participant's social security number.*** Again, indicate with a check mark that this form is initiated by a participating agency.
3. Under "Type of Conditional Certification Determination," distinguish between "Original," if the applicant is being processed for the first time; or "Revalidation," if the eligibility process was performed within the previous 12-month period (45 days for the ex-felon and summer youth target groups only). Otherwise, the conditional certification is counted as original.
4. Enter the date (month, day, and year) on which eligibility determination is completed.
5. Enter the following address for the EDD Job Service office issuing the final certification:  
  

***Employment Development Department  
Work Opportunity Tax Credit Center  
P.O. Box 1408  
Roseville, California 95661***
6. Sign and date the ETA 9062 (DE 8726), Conditional Certification.
7. Enter the area code and telephone number of agency issuing the conditional certification.
8. Enter the applicant's full name.
9. Enter the applicant's social security number.
10. Enter the applicant's home address, including apartment number and zip code.
11. For the WOTC program, enter a check mark in block 11 to indicate if the applicant is summer youth or other and enter the appropriate WOTC target group code. See the WOTC/WtW Tax Credit target group designations listed below to obtain the correct alpha code.

12. For the WtW Tax Credit, enter a check mark in block 12 to indicate conditional certification for the Long-Term Family Assistance Group. Enter the alpha code for this specific target group.
13. Have the applicant sign the conditional certification form.
14. Enter the month, day, and year when the conditional certification expires. The validity period for conditional certifications requiring an economic determination, such as ex-felons, or for summer youth employees, is 45 days. Conditional certifications that do not require an economic determination have no predetermined validity period but are required to meet the specific requirements for their target group at the time of hire and/or start date.

The participant is provided the original conditional certification form. The participating agency may also include a copy of the IRS Form 8850 and may assist in completion of the applicant section. No supporting documentation is required to accompany the conditional certification form when presented to employers. The participant will present the original conditional certification form to prospective employers during the interview/hiring process. If the participant is offered employment, it is the employer's responsibility to complete boxes 15 through 20 on the conditional certification form and submit it, along with IRS Form 8850, to EDD for final certification.

By federal law, participating agencies are required to retain a copy of the conditional certification form and supporting documentation for a period of five years after the conditional certification is issued. During each quarter EDD will draw, for the purposes of auditing, a ten percent sample of all certifications issued during the quarter, including those for qualified summer youth employees. The audit will be conducted to establish the credibility and reliability of the eligibility determination and certification process. Should the random draw include conditional certifications issued by participating agencies, these agencies may be contacted by EDD and requested to submit copies of the documentation that support their finding of WOTC/WtW Tax Credit target group eligibility.

"Attachment 2" lists types of acceptable documentation that may be used when performing conditional certification eligibility determinations.

### **WOTC and WtW Tax Credit Target Group Designations:**

#### **WOTC Target Groups:**

##### **1. Qualified Recipient of AFDC or TANF—Group A**

Any individual who is certified by the designated local agency as being a member of a family receiving AFDC or TANF for any 9-month period during the last 18 months.

##### **2. Qualified Veteran—Group B**

Any veteran who is a member of a family receiving food stamps for at least 3 months during the 15-month period ending on the hiring date and who is certified as:

- Having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, or

- Having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, and
- Not having any day during the 60-day period ending on the hiring date, which was a day of extended active duty in the Armed Forces of the United States.

### 3. Qualified Ex-Felon—**Group C**

Any individual who:

- Has been convicted of a felony under any statute of the United States, or any state; and
- Has a hiring date which is not more than one year after the last date on which such individual was so convicted or was released from prison; and
- Is a member of a family which has an income during the six months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis would be 70 percent or less of the Bureau of Labor Statistics Lower Living Standard Income Levels (LLSIL).

The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a state court places the individual on probation without a finding of guilty (deferred adjudication).

Ex-felons who are participating in a transitional program; e.g., work release, are eligible for the WOTC initiative if they were convicted of a felony **and** are members of an economically disadvantaged family.

Family/member of a family means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A step-child or a step-parent is considered to be related by marriage.

### 4. High-Risk Youth—**Group D**

Any individual who:

- Is age 18 but not yet age 25 on the hiring date, and
- Has his/her principal place of abode within an Empowerment Zone or Enterprise Community.

See “Attachment 3” for additional information regarding Empowerment Zones or Enterprise Communities.

### 5. Vocational Rehabilitation Referral—**Group E**

Any individual who:

- Has a physical or mental disability which results in a substantial barrier to employment; and
- Has been referred to the employer upon completion or while receiving rehabilitative services under a written state plan approved under the Rehabilitation Act of 1973 or a program for veterans carried out under Chapter 31 of Title 38, United States Code.

6. Qualified Summer Youth—**Group F**

Any individual who:

- Performs services for the employer between May 1 and September 15; and
- Is age 16 but not yet 18 on the hiring date (or if later, on May 1 of the calendar year involved); and
- Has not been an employee during any period prior to the 90-day employment period allowed; and
- Resides within an Empowerment Zone or Enterprise Community. Qualified wages shall not include wages paid or incurred for services performed while the individual lived outside of the Empowerment Zone or Enterprise Community.

7. Qualified Food Stamp Recipient—**Group G**

Any individual who:

- Is age 18 but not yet 25 on the hiring date, and
- Is a member of a family receiving food stamps for the six-month period ending on the hiring date, or
- In the case of a family member who has ceased to be eligible for food stamps, received such assistance for at least three months of the five-month period ending on the hiring date.

8. Qualified Supplemental Security Income (SSI) Recipient—**Group H**

Any individual who is certified by the designated local agency as receiving SSI benefits under Title XVI of the Social Security Act, (including benefits of the type described in Section 1616 of such Act or Section 212 of Public Law 93-66) for any month ending within the 60-day period ending on the hiring date.

**WtW Tax Credit Target Group:**

Long-term Family Assistance Recipient (WtW Tax Credit program **only**)— **Group I**

Any individual certified as one who is a member of a family that:

- Has received family assistance (i.e., AFDC/TANF or a successor program) for at least 18 **consecutive** months ending on the hiring date; or
- Has received family assistance for a total of at least 18 months (whether or not consecutive) after August 5, 1997, and has a hiring date that is not more than two years after the end of the earliest 18-month period; or
- Whose AFDC/TANF eligibility expired under a federal or state law **after** August 5, 1997, for applicants hired within two years after their eligibility expired.



**ADDITIONAL INFORMATION:**

The EDD established a web site regarding the WOTC program. Additional information regarding the WOTC program may be found at:

<http://www.edd.cahwnet.gov/wotcind.htm>

**ATTACHMENTS:**

As attachments, this Directive includes copies of IRS form 8850, Form ETA 9061 (DE 8725), Form ETA 9062 (DE 8726), a listing of initiating agency codes, Federal Empowerment Zones and Enterprise Communities, information regarding acceptable documentation, and a copy of a DOL brochure that is available through local EDD Job Service offices.

**ACTION:**

Bring this Directive to the attention of appropriate staff.

**INQUIRIES:**

Address questions regarding this Directive to your assigned program manager or to Georganne Pintar, Manager, JTPD Policy Unit, at (916) 654-7611.

/S/ BILL BURKE

Assistant Deputy Director

Attachments available on Internet:

1. Initiating Agency Codes
2. Examples of Documentary Evidence or Collateral Contact for Establishing and Verifying Employment
3. Federal Empowerment Zones and Enterprise Communities

Attachments not available on Internet. To obtain a copy, e-mail JTPD at [JTPDLIB@EDD.CA.GOV](mailto:JTPDLIB@EDD.CA.GOV) (subject line should read: "Attachment") or contact Gia Valla at (916) 654-7686.

4. Department of the Treasury Internal Revenue Service, Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits, Form 8850 (Rev. 9-97) and Instructions
5. DOL, Individual Characteristics Form, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit, ETA-9061 (Rev. 1-98)
6. DOL, Conditional Certification, Work Opportunity and Welfare-to-Work Tax Credits, ETA-9062 (Rev. 1-98)
7. DOL, Employers: 9 New Ways Employers Can Earn Federal Income Tax Credits Brochure

## INITIATING AGENCY CODES

Service Delivery Area	Initiating Agency Code	Service Delivery Area	Initiating Agency Code
Alameda County	ALA	Orange County	ORA
Anaheim City	ANA	Richmond City	RCH
Butte County	BTE	Riverside County	RIV
Carson/Lomita/Torrance Consortium	CLT	Sacramento City/County Consortium	SAC
Contra Costa County	CON	San Benito County	SBE
Foothill Consortium	FET	San Bernardino City	SBI
Fresno City/County Consortium	FRS	San Bernardino County	SBO
Golden Sierra Consortium	GSC	San Diego Consortium	SDC
Humboldt County	HUM	San Francisco City/County	SFO
Imperial County	IMP	San Joaquin County	SJC
Kern/Inyo/Mono Consortium	KIM	San Luis Obispo County	SLO
Kings County	KNG	San Mateo County	SMC
Long Beach City	LBC	Santa Ana City	SAN
Los Angeles City	LAI	Santa Barbara County	SBA
Los Angeles County	LAO	Santa Clara County	SCL
Madera County	MAD	Santa Cruz County	SCR
Marin County	MAR	SELACO	SEL
Mendocino County	MEN	Shasta County	SHA
Merced County	MER	Solano County	SOL
Monterey County	MON	Sonoma County	SON
Mother Lode Consortium	MLC	South Bay Consortium	SBY
Napa County	NAP	Stanislaus County	STN
NoRTEC Consortium	NOR	Tulare County	TUL
North Central Counties Consortium	NCC	Ventura County	VNP
Nova Consortium	NOV	Verdugo Consortium	VER
Oakland City	OAK	Yolo County	YOL

## EXAMPLES OF DOCUMENTARY EVIDENCE OR COLLATERAL CONTACT FOR ESTABLISHING AND VERIFYING EMPLOYMENT

**Note:** This list is not intended to be all-inclusive.

- **AGE/BIRTHDATE** (required for High Risk Youth, Summer Youth, and Food Stamp groups)
  - Birth Certificate
  - Driver's License
  - School Identification Card
  - Work Permit
- **FAMILY INCOME** (required for Ex-Felon group)
  - Pay Stubs
  - Employer Contacts
  - W-2 Forms
  - Unemployment Insurance Documents
  - Public Assistance Records
  - Family Members' Statements
  - Parole Officer's Name
  - Parole Officer's Statement
- **NUMBER IN FAMILY** (required for Ex-Felon group)
  - Public Assistance Records
  - Social Service Agency Records
  - Family Members' Statements
  - Parole Officer's Statement
- **VETERANS STATUS**
  - DD-214
  - Reserve Unit Contacts
  - Discharge Papers
- **VOCATIONAL REHABILITATION REFERRAL**
  - Vocational Rehabilitation Agency Contact
  - Social Services Agency Contact
  - Veterans' Administration Contact

- **EX-FELON STATUS**

- Parole Officer Contact
- Correctional Institution Records
- Court Records, Extracts, Contact

- **AFDC/TANF RECIPIENT**

- AFDC/TANF Benefit History
- Signed statement from authorized individual with specific description of months in which benefits were received
- Case Number/Identifier

- **FOOD STAMP RECIPIENT**

- Food Stamp Benefit Documentation
- Signed statement from authorized individual with specific description of months in which benefits were received
- Case Number/Identifier

- **EMPOWERMENT ZONE/ENTERPRISE COMMUNITY**

- Driver's License
- Work Permit
- Utility Bills
- Lease Documents
- Voter Registration Card

- **SSI RECIPIENT**

- SSI Record or Authorization Contact
- SSI Contact
- Evidence of SSI Issuance

## FEDERAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Empowerment Zones and Enterprise Communities (EZ/EC) refers to an area or combination of areas meeting certain population, size and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment, and general distress.

California has one Empowerment Zone, four urban and two rural Enterprise Communities.

The Empowerment Zone is in Los Angeles.

The four urban Enterprise Communities are in:

- Los Angeles-South Central/Huntington Park
- Oakland
- San Diego
- San Francisco

The two rural Enterprise Communities are in:

- Imperial County
- Watsonville and Santa Cruz County

Only certain census tracts within a zip code area are in an Empowerment Zone and/or Enterprise Community. Therefore, not all the qualified summer youth or high-risk youth who reside within the areas listed above are eligible for the Work Opportunity Tax Credit (WOTC) Certification. To verify an applicant's address to ensure that his/her residence is in the Empowerment Zone or Enterprise Community, you may enter the individual's address in the EZ/EC World Wide Web (www) Home Page on the Internet at <http://www.ezec.gov>. The system will check it against its files and confirm whether it is in an Empowerment Zone or Enterprise Community. You may also link to this EZ/EC Home Page on the Internet through the EDD WOTC Home Page on the Internet at:

<http://www.edd.cahwnet.gov/wotcind.htm>.

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development Information Center at 1/800-998-9999, and they will check the address for you.

## EZ/EC ZIP CODES FOR CALIFORNIA

90001	92162	93620	95231
90002	92227	93622	95236
90003	92231	93630	95240
90007	92316	93635	95242
90011	92324	93640	95253
90012	92335	93660	95258
90013	92337	93661	95309
90014	92357	93665	95311
90015	92363	93701	95327
90021	92376	93702	95329
90023	92404	93704	95347
90033	92405	93705	95351
90037	92407	93706	95354
90044	92408	93710	95358
90047	92410	93711	95360
90058	92411	93722	95370
90059	93001	93726	95372
90061	93003	93728	95373
90062	93010	94103	95376
90222	93021	94110	95416
90255	93030	94124	95632
90280	93033	94501	95686
90732	93041	94601	95690
90805	93042	94603	95730
91331	93060	94606	95817
91342	93066	94607	95818
91711	93163	94608	95822
91722	93215	94609	95823
91723	93216	94612	95824
91750	93247	94614	95914
91766	93250	94621	95916
91767	93257	94945	95928
91768	93263	94947	95930
91773	93265	95076	95938
91791	93268	95205	95940
92024	93274	95206	95941
92101	93280	95207	95948
92102	93304	95209	95965
92104	93307	95212	95966
92105	93308	95215	95967
92113	93312	95219	95969
92115	93436	95220	
92154	93606	95230	